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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/324,920 06/03/99 DEGRAAF

J 1960.122

EXAMINER

001059

TM02/0912

BERESKIN AND PARR

SCOTIA PLAZA

40 KING STREET WEST-SUITE 4000 BOX 401

TORONTO ON M5H 3Y2

CANADA

AIR MAIL

CALVE, J

ART UNIT

PAPER NUMBER

2164

DATE MAILED:

09/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/324,920

Applicant(s)

DEGRAAF, Jim, et al

Examiner

Jim Calve

Art Unit

2164



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 28, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-33 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

Art Unit: 2164

DETAILED ACTION

1. Claims 26-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 26, line 10, the limitation "at least one dynamic portfolio of claim 18" is vague and indefinite. It is unclear what structural or functional limitations are being recited by this limitation.

Claim Rejections - 35 USC § 102

2. Claims 4-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Melnikoff, U.S. patent 5,729,700.

Melnikoff discloses a method, portfolio, and system of determining risk associated with a portfolio, including creating a user defined dynamic portfolio/holding structure (e.g., tentative portfolio) (e.g., column 5, line 58 et seq; column 6, line 15 et seq), strategy structure and trade manager defining a trading strategy of a desired result dependent on at least one tracked attribute (e.g., risk adjusted portfolio return) (e.g., column 5, line 63 et seq; column 9, line 15 et seq; column 18, line 35 et seq; column 21, line 5 et seq), simulating changes to the initial composition for plural scenarios (e.g., column 6, line 32 et seq), risk and aggregating engines producing a risk metric (e.g., column 5, line 25 et seq; column 6, line 32 et seq; column 7, line 41 et seq; column 16, line 1 et seq; column 19, line 33 et seq).

Art Unit: 2164

Melnikoff also discloses at least one rule/condition (e.g., column 5, line 54 et seq; column 6, line 5 et seq), continuing a simulation using a portfolio of changed composition (e.g., column 6, line 33 et seq; column 20, line 10 et seq), simulating at a subsequent second time to simulate trades to a third composition (e.g., column 20, line 19 et seq), predetermined user quantity and funding instrument (e.g., column 16, line 42 et seq; column 18, line 35 et seq; column 19, line 45 et seq), comparison, functional, or composite rule (e.g., column 17, line 50 et seq; column 19, line 45 et seq), plural prioritized trading strategies (e.g., column 19, line 45 et seq).

3. Claims 4-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Edesess, U.S. patent 5,884,287.

Edesess discloses a method, portfolio, and system of determining risk associated with a portfolio, including creating a user defined dynamic portfolio/holding structure (e.g., Figures 1, 2; column 2, line 23 et seq; column 4, line 22 et seq), strategy structure and trade manager defining a trading strategy of a desired result dependent on at least one tracked attribute (e.g., probabilities, risk, tax consequences) (e.g., column 2, line 48 et seq; column 4, line 30 et seq), simulating changes for plural scenarios (e.g., Figures 2-6; column 5, line 54 et seq; column 6, line 10 et seq), risk and aggregating engines producing a risk metric (e.g., Figures 2-6; column 2, line 23 et seq; column 3, line 15 et seq; column 6, line 28 et seq; column 7, line 5 et seq).

Edesess also discloses at least one rule/condition (e.g., column 2, line 52 et seq; column 4, line 55 et seq; column 5, line 15 et seq), continuing a simulation using a portfolio of changed composition (e.g., column 6, line 50 et seq), simulating at a subsequent second time to simulate

Art Unit: 2164

trades to a third composition (e.g., Figure 3A; column 5, line 64 et seq; column 6, line 50 et seq), predetermined user quantity and funding instrument (e.g., column 4, line 45 et seq; column 5, line 5 et seq), comparison, functional, or composite rule (e.g., column 5, line 23 et seq; column 5, line 54 et seq), plural prioritized trading strategies (e.g., column 5, line 59 et seq; column 6, line 49 et seq).

4. Claims 4-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Garman, U.S. patent 5,819,237.

Garman discloses a method, portfolio, and system of determining risk associated with a portfolio, including creating a user defined dynamic portfolio/holding structure (e.g., column 3, line 39 et seq; column 4, line 5 et seq; column 11, line 10 et seq), strategy structure and trade manager defining a trading strategy of desired result dependent on at least one tracked attribute (e.g., column 5, line 47 et seq; column 7, line 50 et seq; column 9, line 27 et seq; column 11, line 1 et seq), simulating changes for plural scenarios (e.g., column 8, line 30 et seq; column 10, line 64 et seq), risk and aggregating engines producing a risk metric (e.g., column 5, line 27 et seq; column 3, line 15 et seq).

Garman also discloses at least one rule/condition (e.g., column 5, line 45 et seq; column 7, line 50 et seq), continuing a simulation using a portfolio of changed composition (e.g., column 6, line 42 et seq; column 11, line 10 et seq), simulating at a subsequent second time trades to a third composition (e.g., column 8, line 30 et seq; column 9, line 7 et seq), predetermined user quantity and funding instrument (e.g., column 4, line 24 et seq), comparison, functional, or composite rule

Art Unit: 2164

(e.g., column 8, line 42 et seq; column 9, line 27 et seq), plural prioritized trading strategies (e.g., Figures 2, 3; column 10, line 57 et seq).

Response to Arguments

5. Applicant's arguments filed June 28, 2001 (Paper #9) have been fully considered but they are not persuasive.

Melnikoff is deemed to disclose a method, portfolio, and system of determining risk associated with a portfolio, including the simulation of trades to determine a portfolio risk metric (e.g., column 5, line 25 et seq; column 6, line 32 et seq). Actual asset trades may be made based upon results of the simulations (e.g., column 10, line 30 et seq).

Further, Edesess is deemed to disclose a method, portfolio, and system of determining risk associated with a portfolio, including simulation of trades to determine a portfolio risk metric (e.g., Figures 2-6; column 5, line 54 et seq; column 6, line 10 et seq).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 2164

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim Calve, whose telephone number is (703) 308-1884. The examiner can normally be reached on Tuesday through Friday from 6:45 am to 6:45 pm. The fax number for this organization is (703) 305-9051/9052. Any inquiry of a general nature should be directed to the receptionist at (703) 305-3900.

JPC
JPC

September 4, 2001


VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100